

REMARKS

New claims 60-61 are added. Support for the new claims is provided by the originally-filed application at, for example, Figs. 19-20.

Claims 7-9 and 51-53 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 and claims 1-12 of U. S. Patent No. 6,403,429 and 6,300,204. A proper terminal disclaimer is filed with this response to overcome this rejection. Accordingly, this rejection is rendered moot.

Claims 5-9, 40-49, 51-53, 56-57 and 59 are rejected under 35 U.S.C. §102(e) as being anticipated by Park et al. (U.S. Patent No. 5,840,591). Claims 50 and 55 are rejected under 35 U.S.C. §103(a) as being unpatentable over Park et al. in view of Lu et al. (U. S. Patent No. 4,983,544) and further in view of Sung (U.S. Patent No. 5,753,551).

Regarding the anticipation rejection against independent claim 5 based on Park, claim 5 is amended to recite an entirety of the conductive material being above the semiconductive material. The amendment language is supported by the originally-filed application at, for example, Figs. 19-20. Park teaches that substantial portions of bit line contact plug 130 extend below portions of substrate 100 (for which the Examiner relies to teach the recited semiconductive material), not an entirety above as recited (see Fig. 5B of Park). In no fair or reasonable argument does Park teach or suggest an entirety of the conductive material being above the semiconductive material as positively recited by claim 5. Independent claim 5 is allowable.

Claims 6-9, 55-56 and 60-61 depend from independent claim 5, and therefore, are allowable for the reasons discussed above with respect to the independent claim, as well as for their own recited features which are not taught or suggested by the art of record.

For example, dependent claim 55 is rejected as being obvious over the combination of Park in view of Lu and Sung. Claim 55 recites wherein the outer surface of the diffusion region comprises an uppermost surface, and wherein the conductive line comprises an uppermost surface which is coplanar with the uppermost surface of the diffusion region. The Examiner correctly states Park fails to teach this limitation (pg. 4 of paper no. 0406). However, the Examiner fails to state where either reference to Lu and Sung teach this positively recited limitation (pgs. 4-5 of paper no. 0406). Moreover, Lu and Sung, singularly or in any combination, fail to teach or suggest this limitation. Lu teaches a gate electrode 20 having an uppermost surface that is **above** diffusion regions 22 and 24 (Figs. 2-6), not coplanar as positively recited. Sung teaches a word line 10 having an uppermost surface that is **above** source/drain regions 11 and 13 (Fig. 7b), not coplanar as positively recited. Consequently, Park, Lu and Sung, singularly or in any combination, fail to teach or suggest the positively recited limitation of claim 55. Claim 55 is allowable.

Regarding the anticipation rejection against independent claim 40 based on Park, claim 40 recites wherein the conductive line comprises an uppermost surface which is coplanar with the uppermost surface of the conductive node. The Examiner explicitly and correctly states that Park fails to teach or suggest this positively recited limitation (pg. 4 of paper no. 0406). Accordingly, this rejection must be withdrawn. Moreover, Lu and Sung, each singularly, fail to teach or suggest this positively recited limitation of claim 40. Notably, the Examiner fails to point to any teachings in any one reference where this limitation is taught or suggested. Accordingly, since no cited reference, singularly, teaches this recited limitation, it is inconceivable that any combination of the references teach or suggest this positively recited limitation of claim 40. Independent claim 40 is allowable.

Claims 41-53, 57 and 59 depend from independent claim 40, and therefore, are allowable for the reasons discussed above with respect to the independent claim, as well as for their own recited features which are not taught or suggested by the art of record.

This application is now believed to be in immediate condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview prior to issuance of any such subsequent action.

Respectfully submitted,

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